

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that Senate Bill 1 be amended to read as follows:

- 1 Page 19, line 2, delete "request".
- 2 Page 19, line 2, delete "with the township assessor to"
- 3 Page 19, line 3, delete "review the assessment".
- 4 Page 19, line 3, delete "the taxpayer's right".
- 5 Page 19, line 17, delete "township assessor;" and insert "**county or**
- 6 **township official referred to in this subsection;**".
- 7 Page 19, delete line 25 and insert "**county or township official**
- 8 **referred to in subsection (a):**".
- 9 Page 19, line 29, reset in roman "county".
- 10 Page 19, line 29, delete "township".
- 11 Page 19, line 29, strike "assessor" and insert "**or township official**
- 12 **referred to in subsection (a)**".
- 13 Page 20, line 35, strike "township assessor" and insert "**county or**
- 14 **township official referred to in subsection (a)**".
- 15 Page 20, line 36, after "petition," insert "**a written request for a**
- 16 **preliminary conference,**".
- 17 Page 20, line 36, reset in roman "attempt to".
- 18 Page 20, line 36, delete "a written request for a".
- 19 Page 20, line 37, delete "preliminary conference,".
- 20 Page 21, line 10, strike "township assessor" and insert "**county or**
- 21 **township official referred to in subsection (a)**".
- 22 Page 21, line 17, after "and the" delete "township assessor." and
- 23 insert "**official.**".
- 24 Page 21, line 17, after "The" delete "township assessor" and insert
- 25 "**official**".
- 26 Page 21, line 25, after "official" insert "**referred to in subsection**
- 27 **(a)**".
- 28 Page 21, line 27, delete "township assessor's".
- 29 Page 21, line 28, after "disagreement" insert "**by the official**".

- 1 Page 21, line 29, delete "township assessor" and insert "**official**".
- 2 Page 21, line 34, strike "township assessor" and insert "**county or**
- 3 **township official referred to in subsection (a)**".
- 4 Page 21, line 37, strike "township assessor;" and insert "**official;**".
- 5 Page 22, line 4, delete "county property tax assessment".
- 6 Page 22, line 5, delete "(j) and (k)," and insert "**(k) and (l)**".
- 7 Page 22, line 7, delete "township" and insert "**official's**".
- 8 Page 22, line 8, delete "assessor's".
- 9 Page 22, line 11, strike "township assessor or county assessor for
- 10 the county" and insert "**county or township official referred to in**
- 11 **subsection (a)**".
- 12 Page 22, line 17, delete "(j)" insert "**(k)**".
- 13 Page 22, line 19, delete "(k)." and insert "**(l)**".
- 14 Page 22, between lines 19 and 20 begin a new paragraph and insert:
- 15 "**(j) If the township assessor does not attempt to hold a**
- 16 **preliminary conference, the taxpayer may file a request in writing**
- 17 **with the county assessor for a hearing before the property tax**
- 18 **assessment board of appeals. If the board determines that the**
- 19 **county or township official referred to in subsection (a) did not**
- 20 **attempt to hold a preliminary conference, the board shall hold a**
- 21 **hearing. The taxpayer and the county or township official whose**
- 22 **original determination is under review are parties to the**
- 23 **proceeding before the board of appeals. The hearing must be held**
- 24 **within ninety (90) days of the receipt by the board of appeals of**
- 25 **the taxpayer's hearing request under this subsection. The**
- 26 **requirements of subsection (i) with respect to:**
- 27 **(1) participation in the hearing by the taxpayer and the**
- 28 **township assessor or county assessor; and**
- 29 **(2) the procedures to be followed by the county board;**
- 30 **apply to a hearing held under this subsection."**
- 31 Page 22, line 20, delete "(j)" and insert "**(k)**".
- 32 Page 22, line 29, delete "(k)" and insert "**(l)**".
- 33 Page 22, line 39, delete "(l)" and insert "**(m)**".
- 34 Page 23, line 1, delete "(i);" and insert "**(i) or (j);**".
- 35 Page 23, line 40, delete "township assessor" and insert "**the county**
- 36 **or township official**".
- 37 Page 24, between lines 8 and 9 begin a new paragraph and insert:
- 38 "SECTION 15. IC 6-1.1-15-3, AS AMENDED BY P.L.256-2003,
- 39 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 40 UPON PASSAGE]: Sec. 3. (a) A taxpayer may obtain a review by the
- 41 Indiana board of a county property tax assessment board of appeals
- 42 action with respect to the assessment of that taxpayer's tangible
- 43 property if the county property tax assessment board of appeals' action
- 44 requires the giving of notice to the taxpayer. A township assessor,
- 45 county assessor, member of a county property tax assessment board

of appeals, or county property tax assessment board of appeals that made the original determination under appeal under this section is a party to the review under this section to defend the determination. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

- (1) the taxpayer's opportunity for review under this section; and
- (2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) A township assessor or county assessor may obtain a review by the Indiana board of any assessment which the township assessor or the county assessor has made, upon which the township assessor or the county assessor has passed, or which has been made over the township assessor's or the county assessor's protest.

(c) In order to obtain a review by the Indiana board under this section, the party must file a petition for review with the appropriate county assessor within thirty (30) days after the notice of the county property tax assessment board of appeals action is given to the taxpayer.

(d) The Indiana board shall prescribe the form of the petition for review of an assessment determination by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. An appeal of such a determination must be made on the form prescribed by the Indiana board. The form must require the petitioner to specify the following:

- (1) **If the county or township official held a preliminary conference under section 1(f) of this chapter**, the items listed in section ~~1(c)(1)~~ **1(g)(1)** and ~~1(c)(2)~~ **1(g)(2)** of this chapter.
- (2) The reasons why the petitioner believes that the assessment determination by the county property tax assessment board of appeals is erroneous.

(e) The county assessor shall transmit the petition for review to the Indiana board within ten (10) days after it is filed.

(f) If a township assessor or a member of the county property tax assessment board of appeals files a petition for review under this section concerning the assessment of a taxpayer's property, the county assessor must send a copy of the petition to the taxpayer.

SECTION 16. IC 6-1.1-15-4, AS AMENDED BY P.L.245-2003, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. The Indiana board may:

- (1) assign:
  - (A) full;
  - (B) limited; or

(C) no;  
evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the property reassessment fund under IC 6-1.1-4-27.5. The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.

(b) If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter.

(c) The Indiana board shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:

(1) **if the county or township official held a preliminary conference under section 1(f) of this chapter**, indicated on the petition submitted under ~~section 1(e) of this chapter~~; **that section by the taxpayer and the official;**

~~(2) included in the township assessor's response under section 1(g) of this chapter; and~~

~~(3) (2) included in the county property tax assessment board of appeals' findings, record, and determination under section 2.1(d)~~  
**2.1(c) of this chapter.**

1 The form must also require the Indiana board to indicate the issues in  
2 dispute and its reasons in support of its resolution of those issues.

3 (d) After the hearing the Indiana board shall give the petitioner, the  
4 township assessor, the county assessor, and the county auditor:

- 5 (1) notice, by mail, of its final determination;
- 6 (2) a copy of the form completed under subsection (c); and
- 7 (3) notice of the procedures they must follow in order to obtain  
8 court review under section 5 of this chapter.

9 (e) Except as provided in subsection (f), the Indiana board shall  
10 conduct a hearing not later than nine (9) months after a petition in  
11 proper form is filed with the Indiana board, excluding any time due to  
12 a delay reasonably caused by the petitioner.

13 (f) With respect to an appeal of a real property assessment that takes  
14 effect on the assessment date on which a general reassessment of real  
15 property takes effect under IC 6-1.1-4-4, the Indiana board shall  
16 conduct a hearing not later than one (1) year after a petition in proper  
17 form is filed with the Indiana board, excluding any time due to a delay  
18 reasonably caused by the petitioner.

19 (g) Except as provided in subsection (h), the Indiana board shall  
20 make a determination not later than the later of ninety (90) days after  
21 the hearing or the date set in an extension order issued by the Indiana  
22 board.

23 (h) With respect to an appeal of a real property assessment that takes  
24 effect on the assessment date on which a general reassessment of real  
25 property takes effect under IC 6-1.1-4-4, the Indiana board shall make  
26 a determination not later than the later of one hundred eighty (180) days  
27 after the hearing or the date set in an extension order issued by the  
28 Indiana board.

29 (i) Except as provided in subsection (n), the Indiana board may not  
30 extend the final determination date under subsection (g) or (h) by more  
31 than one hundred eighty (180) days. If the Indiana board fails to make  
32 a final determination within the time allowed by this subsection, the  
33 entity that initiated the petition may:

- 34 (1) take no action and wait for the Indiana board to make a final  
35 determination; or
- 36 (2) petition for judicial review under section 5(g) of this chapter.

37 (j) A final determination must include separately stated findings of  
38 fact for all aspects of the determination. Findings of ultimate fact must  
39 be accompanied by a concise statement of the underlying basic facts of  
40 record to support the findings. Findings must be based exclusively upon  
41 the evidence on the record in the proceeding and on matters officially  
42 noticed in the proceeding. Findings must be based upon a  
43 preponderance of the evidence.

44 (k) The Indiana board may limit the scope of the appeal to the issues  
45 raised in the petition and the evaluation of the evidence presented to the  
46 county property tax assessment board of appeals in support of those  
47 issues only if all persons participating in the hearing required under

subsubsection (a) agree to the limitation. A person participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.

(l) The Indiana board:

(1) may require the parties to the appeal to file not more than five (5) business days before the date of the hearing required under subsection (a) documentary evidence or summaries of statements of testimonial evidence; and

(2) may require the parties to the appeal to file not more than fifteen (15) business days before the date of the hearing required under subsection (a) lists of witnesses and exhibits to be introduced at the hearing.

(m) A party to a proceeding before the Indiana board shall provide to another party to the proceeding the information described in subsection (l) if the other party requests the information in writing at least ten (10) days before the deadline for filing of the information under subsection (l).

(n) The county assessor may:

(1) appear as an additional party if the notice of appearance is filed before the review proceeding; or

(2) with the approval of the township assessor, represent the township assessor;

in a review proceeding under this section.

(o) The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

(1) order that a final determination under this subsection has no precedential value; or

(2) specify a limited precedential value of a final determination under this subsection."

Page 103, between lines 12 and 13, begin a new paragraph and insert:

**"(c) The department of local government finance may not prescribe a form for taxpayers to request a hearing before the**

1        **county property tax assessment board of appeals under**  
2        **IC 6-1.1-15-1(j), as added by this act. Any written document**  
3        **requesting the hearing is sufficient."**

4        Page 103, line 13, delete "(c)" and insert "**(d)**".

5        Renumber all SECTIONS consecutively.

(Reference is to SB 1 as printed November 21, 2003.)

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Senator KENLEY